

**SB3803**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB3803**

Introduced 2/14/2020, by Sen. Robert F. Martwick

**SYNOPSIS AS INTRODUCED:**

115 ILCS 5/2

from Ch. 48, par. 1702

Amends the Illinois Educational Labor Relations Act. Provides that a "supervisor" shall be considered an educational employee under the definition of "educational employee" unless the supervisor is also a managerial employee. Modifies the definition of "managerial employee" to mean an individual who has a significant role in the negotiation of collective bargaining agreements or who formulates and determines employer-wide management policies and practices (rather than an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices).

LRB101 20033 CMG 69563 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Educational Labor Relations Act is  
5 amended by changing Section 2 as follows:

6 (115 ILCS 5/2) (from Ch. 48, par. 1702)

7 Sec. 2. Definitions. As used in this Act:

8 (a) "Educational employer" or "employer" means the  
9 governing body of a public school district, including the  
10 governing body of a charter school established under Article  
11 27A of the School Code or of a contract school or contract  
12 turnaround school established under paragraph 30 of Section  
13 34-18 of the School Code, combination of public school  
14 districts, including the governing body of joint agreements of  
15 any type formed by 2 or more school districts, public community  
16 college district or State college or university, a  
17 subcontractor of instructional services of a school district  
18 (other than a school district organized under Article 34 of the  
19 School Code), combination of school districts, charter school  
20 established under Article 27A of the School Code, or contract  
21 school or contract turnaround school established under  
22 paragraph 30 of Section 34-18 of the School Code, an  
23 Independent Authority created under Section 2-3.25f-5 of the

1 School Code, and any State agency whose major function is  
2 providing educational services. "Educational employer" or  
3 "employer" does not include (1) a Financial Oversight Panel  
4 created pursuant to Section 1A-8 of the School Code due to a  
5 district violating a financial plan or (2) an approved  
6 nonpublic special education facility that contracts with a  
7 school district or combination of school districts to provide  
8 special education services pursuant to Section 14-7.02 of the  
9 School Code, but does include a School Finance Authority  
10 created under Article 1E or 1F of the School Code and a  
11 Financial Oversight Panel created under Article 1B or 1H of the  
12 School Code. The change made by this amendatory Act of the 96th  
13 General Assembly to this paragraph (a) to make clear that the  
14 governing body of a charter school is an "educational employer"  
15 is declaratory of existing law.

16 (b) "Educational employee" or "employee" means any  
17 individual, excluding ~~supervisors~~, managerial, confidential,  
18 short term employees, student, and part-time academic  
19 employees of community colleges employed full or part time by  
20 an educational employer, but shall not include elected  
21 officials and appointees of the Governor with the advice and  
22 consent of the Senate, firefighters as defined by subsection  
23 (g-1) of Section 3 of the Illinois Public Labor Relations Act,  
24 and peace officers employed by a State university. For the  
25 purposes of this Act, part-time academic employees of community  
26 colleges shall be defined as those employees who provide less

1 than 3 credit hours of instruction per academic semester. In  
2 this subsection (b), the term "student" does not include  
3 graduate students who are research assistants primarily  
4 performing duties that involve research, graduate assistants  
5 primarily performing duties that are pre-professional,  
6 graduate students who are teaching assistants primarily  
7 performing duties that involve the delivery and support of  
8 instruction, or any other graduate assistants. A supervisor  
9 shall be considered an educational employee under this  
10 definition unless the supervisor is also a managerial employee.

11 (c) "Employee organization" or "labor organization" means  
12 an organization of any kind in which membership includes  
13 educational employees, and which exists for the purpose, in  
14 whole or in part, of dealing with employers concerning  
15 grievances, employee-employer disputes, wages, rates of pay,  
16 hours of employment, or conditions of work, but shall not  
17 include any organization which practices discrimination in  
18 membership because of race, color, creed, age, gender, national  
19 origin or political affiliation.

20 (d) "Exclusive representative" means the labor  
21 organization which has been designated by the Illinois  
22 Educational Labor Relations Board as the representative of the  
23 majority of educational employees in an appropriate unit, or  
24 recognized by an educational employer prior to January 1, 1984  
25 as the exclusive representative of the employees in an  
26 appropriate unit or, after January 1, 1984, recognized by an

1 employer upon evidence that the employee organization has been  
2 designated as the exclusive representative by a majority of the  
3 employees in an appropriate unit.

4 (e) "Board" means the Illinois Educational Labor Relations  
5 Board.

6 (f) "Regional Superintendent" means the regional  
7 superintendent of schools provided for in Articles 3 and 3A of  
8 The School Code.

9 (g) "Supervisor" means any individual having authority in  
10 the interests of the employer to hire, transfer, suspend, lay  
11 off, recall, promote, discharge, reward or discipline other  
12 employees within the appropriate bargaining unit and adjust  
13 their grievances, or to effectively recommend such action if  
14 the exercise of such authority is not of a merely routine or  
15 clerical nature but requires the use of independent judgment.  
16 The term "supervisor" includes only those individuals who  
17 devote a preponderance of their employment time to such  
18 exercising authority.

19 (h) "Unfair labor practice" or "unfair practice" means any  
20 practice prohibited by Section 14 of this Act.

21 (i) "Person" includes an individual, educational employee,  
22 educational employer, legal representative, or employee  
23 organization.

24 (j) "Wages" means salaries or other forms of compensation  
25 for services rendered.

26 (k) "Professional employee" means, in the case of a public

1 community college, State college or university, State agency  
2 whose major function is providing educational services, the  
3 Illinois School for the Deaf, and the Illinois School for the  
4 Visually Impaired, (1) any employee engaged in work (i)  
5 predominantly intellectual and varied in character as opposed  
6 to routine mental, manual, mechanical, or physical work; (ii)  
7 involving the consistent exercise of discretion and judgment in  
8 its performance; (iii) of such character that the output  
9 produced or the result accomplished cannot be standardized in  
10 relation to a given period of time; and (iv) requiring  
11 knowledge of an advanced type in a field of science or learning  
12 customarily acquired by a prolonged course of specialized  
13 intellectual instruction and study in an institution of higher  
14 learning or a hospital, as distinguished from a general  
15 academic education or from an apprenticeship or from training  
16 in the performance of routine mental, manual, or physical  
17 processes; or (2) any employee, who (i) has completed the  
18 courses of specialized intellectual instruction and study  
19 described in clause (iv) of paragraph (1) of this subsection,  
20 and (ii) is performing related work under the supervision of a  
21 professional person to qualify himself or herself to become a  
22 professional as defined in paragraph (1).

23 (1) "Professional employee" means, in the case of any  
24 public school district, or combination of school districts  
25 pursuant to joint agreement, any employee who has a certificate  
26 issued under Article 21 or Section 34-83 of the School Code, as

1 now or hereafter amended.

2 (m) "Unit" or "bargaining unit" means any group of  
3 employees for which an exclusive representative is selected.

4 (n) "Confidential employee" means an employee, who (i) in  
5 the regular course of his or her duties, assists and acts in a  
6 confidential capacity to persons who formulate, determine and  
7 effectuate management policies with regard to labor relations  
8 or who (ii) in the regular course of his or her duties has  
9 access to information relating to the effectuation or review of  
10 the employer's collective bargaining policies.

11 (o) "Managerial employee" means an individual who has a  
12 significant role in the negotiation of collective bargaining  
13 agreements or who formulates and determines employer-wide  
14 management policies and practices. "Managerial employee"  
15 includes a regional superintendent or school district  
16 superintendent provided for under Section 10-21.4 or 34-6 of  
17 the School Code. ~~is engaged predominantly in executive and~~  
18 ~~management functions and is charged with the responsibility of~~  
19 ~~directing the effectuation of such management policies and~~  
20 ~~practices.~~

21 (p) "Craft employee" means a skilled journeyman, craft  
22 person, and his or her apprentice or helper.

23 (q) "Short-term employee" is an employee who is employed  
24 for less than 2 consecutive calendar quarters during a calendar  
25 year and who does not have a reasonable expectation that he or  
26 she will be rehired by the same employer for the same service

1 in a subsequent calendar year. Nothing in this subsection shall  
2 affect the employee status of individuals who were covered by a  
3 collective bargaining agreement on the effective date of this  
4 amendatory Act of 1991.

5 (Source: P.A. 101-380, eff. 1-1-20.)